

**Amendment and Response**

Applicant: Gerome A. Haney

Serial No.: 10/629,005

Filed: July 29, 2003

Docket No.: 10990836-3

Title: RACK MOUNT ASSEMBLY

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**REMARKS**

The following Remarks are made in response to the Non-Final Office Action mailed October 29, 2004, in which claims 10-15, 17-22, 24-29, 31-36, 38, and 41 were rejected, and claims 16 and 30 were objected to. With this Amendment, claims 10, 15, 24, 29, and 38 have been amended to clarify Applicant's invention. Claims 10-22, 24-36, 38, and 41 remain pending in the application and are presented for reconsideration and allowance.

**Claim Rejections under 35 U.S.C. § 112**

Claims 15, 29, and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More specifically, the Examiner contends that it is unclear how the length can be both "maintained" and "adjustable".

With this Amendment, claims 15 and 29 have been amended to clarify that the length of the rack mount is adjustable before the rack mount is in the first position. In addition, claim 38 has been amended to clarify that after adjusting the length of the rack mount assembly, the method includes maintaining the length of the rack mount assembly and sliding the rack mount assembly relative to the opposing column flanges, and to clarify that after sliding the rack mount assembly relative to the opposing column flanges, the method includes maintaining the length of the rack mount assembly and engaging flange apertures of the opposing column flanges with the alignment protrusions.

In view of the above, Applicant submits that claims 15, 29, and 38 are clear. Applicant, therefore, respectfully requests that the rejection of claims 15, 29, and 38 under 35 U.S.C. 112, second paragraph, be reconsidered and withdrawn and that claims 15, 29, and 38 be allowed.

**Claim Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103**

Claims 10-15, 17-21, 24-29, 31-35, 38, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Kofstad U.S. Patent No. 5,833,337. Claims 22 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kofstad in view of Harrington U.S. Patent No. 2,927,652.

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With this Amendment, independent claim 10 has been amended to clarify that a length of the rack mount is defined from the first mounting flange to the second mounting flange, wherein the length of the rack mount is maintained when the rack mount is in the first position, the second position, and the third position. In addition, independent claim 24 has been amended to clarify that a length of the rack mount is defined from the first mounting flange to the second mounting flange, wherein the length of the rack mount is maintained when the rack mount is moved from the first position to the second position.

In addition, independent claim 38 has been amended to clarify that the method includes positioning the rack mount assembly to span the opposing column flanges of the rack system, including adjusting a length of the rack mount assembly from the first mounting flange to the second mounting flange, to clarify that after positioning the rack mount assembly to span the opposing column flanges, including after adjusting the length of the rack mount assembly, the method includes maintaining the length of the rack mount assembly and sliding the rack mount assembly relative to the opposing column flanges, and to clarify that after sliding the rack mount assembly relative to the opposing column flanges, the method includes maintaining the length of the rack mount assembly and engaging flange apertures of the opposing column flanges with the alignment protrusions.

With respect to the Kofstad and Harrington et al. patents, neither of these patents, individually or in combination, teach or suggest a rack mount assembly as claimed in amended independent claim 10, a rack system as claimed in amended independent claim 24, nor a method of mounting a rack mount assembly as claimed in amended independent claim 38.

In view of the above, Applicant submits that independent claims 10, 24, and 38 are each patentably distinct from the Kofstad and Harrington et al. patents and, therefore, are each in a condition for allowance. Furthermore, as dependent claims 11-22 further define patentably distinct claim 10, dependent claims 25-36 further define patentably distinct claim 24, and dependent claim 41 further defines patentably distinct claim 38, Applicant submits that dependent claims 11-22, 25-36, and 41 are also in a condition for allowance. Applicant, therefore, respectfully requests that the rejections of claims 10-15, 17-21, 24-29, 31-35, 38, and 41 under 35 U.S.C. 102(b) and claims 22 and 36 under 35 U.S.C. 103(a) be reconsidered and withdrawn and that claims 10-22, 24-36, 38, and 41 be allowed.

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**Allowable Subject Matter**

Claims 16 and 30 are objected to as being dependent upon a rejected base claim and are indicated as being allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Applicant appreciates the indicated allowability of claims 16 and 30. As outlined above, Applicant, however, has amended independent claim 10 (from which claim 16 depends) and independent claim 24 (from which claim 30 depends) to clarify that a length of the rack mount is defined from the first mounting flange to the second mounting flange. As amended independent claims 10 and 24 are believed to be in allowable form, Applicant respectfully submits that claims 16 and 30 are allowable in dependent form. Applicant, therefore, respectfully requests that the objection to claims 16 and 30 be removed and that claims 16 and 30 be allowed.

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### CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 10-22, 24-36, 38, and 41 are all in a condition for allowance and requests reconsideration of the application and allowance of all pending claims.

Any inquiry regarding this Amendment and Response should be directed to either Robert D. Wasson at Telephone No. (360) 212-2338, Facsimile No. (858) 655-5859 or Scott A. Lund at Telephone No. (612) 573-2006, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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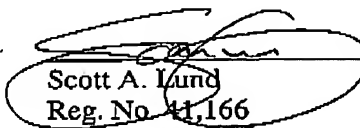
Respectfully submitted,

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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this paper or papers, as described herein, are being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on this 20th day of January, 2005.

By   
Name: Scott A. Lund